

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF RHODE ISLAND

FILED

Andrew Joseph Smith

2017 NOV 18th Day of November, 2017

VS.

State of Rhode Island

U.S. DISTRICT COURT
DISTRICT OF RHODE ISLAND

CA 17- 522
C. 525

EMERGENCY RELIEF INJUNCTION REQUESTED

COMPLAINT

Now comes the Plaintiff, Andrew Joseph Smith, Pro-Se, in the above titled **COMPLAINT** and his request for an **EMERGENCY RELIEF INJUNCTION**, to be placed upon the RI Superior Court, until a ruling in this Plaintiff's two (2) Petition's for a Writ of Certiorari, that have been submitted to the RI Supreme Court on November 7th, 2017, (Note: no SU- docket # provided yet, confirmation of stamped dated writ, is provided by Supreme Court Clerk's office 401-222-3272) and a second Writ SU-2017-0354MP, previously submitted on October 11th, 2017), are ruled upon and submitted to this Plaintiff and the RI Superior Court. This United States citizen born on American soil, asserts that the Judiciary of the State of Rhode Island, specifically the RI Superior Court and Associate Justice William E. Carnes Jr., has violated numerous of my inviolate United States and Rhode Island Constitutional Rights and **DUE PROCESS OF LAW** at time of trial, on the dates of November 6th, 2017, through November 9th, 2017. These unlawful, illegal, un-American negligent and gross actions of Un-Constitutional bias by the RI Superior Court, resulted in a jury convicting me, due to the State of Rhode Island not affording me of my U.S. and RI Constitutional Rights. The following listed **violations** of Due Process of Law and my Constitutional Rights are listed and itemized as below.

DECLARATION # 1. THE UNITED STATES CONSTITUTION IS THE SUPREME LAW OF OUR NATION AND ANY LAW INCONSISTENT THEREWITH SHALL BE VOID! This is to include unconstitutional actions by the Judiciary of State of Rhode Island.

DECLARATION #2. DECLARATION OF FREEDOM AND THE RIGHT TO EXERCISE THEREOF: This American born Citizen **DECLARES** upon this **HONORABLE COURT** to honor uphold and defend of this Americans Rights to Freedom, as provided to him by his forefathers and his right, in his exercising of a complaint to the United States District Court District of Rhode Island System. Furthermore, any actions by this U.S. District Court **cannot** be deemed as State of RI, **interlocutory** by this court, within the State of Rhode Island Judiciary Decisions that have violated of my Constitutional Rights, as the Rules of Procedure of this court are **MAN-MADE** United States District Court Rules, not voted upon by the "whole of the people", of which in your interlocutory rules, are in and of themselves, a violation of an American's Right to exercise of the United States District Court and the United States Constitution. **WHEREFORE**, the U.S. Constitution, the Bill of Rights and the Amendments to the Constitution, can only be changed

by a vote and polling of the **WHOLE OF THE AMERICAN PEOPLE**. Any actions to deny my inviolate request for a state injunction by this court, due to being "interlocutory" will be deemed by the "**WHOLE OF THE PEOPLE**" **all AMERICANS**, to be a violation of my **inviolate Constitutional Rights**.

DECLARATION # 3. By provided and attached fact. The State of Rhode Island and politicians of whom voters have empowered to oversee the government, are in fact members of the most corrupt and un-Constitutional exercising state in the entire union. (Please see attached original ratification from the **very last state** in the nation to approve of the United States Constitution, originally ratified and adjourned on September 17th, 1787, and was not ratified by the State of Rhode Island until three years later on May 29th, 1790. **(1st) FIRST VOTE ON MARCH 24TH, 1788 92 % AGAINST THE CONSTITUTION. (2nd) SECOND VOTE ON MAY 29TH, 1790, 51% FOR, 49% AGAINST THE CONSTITUTION.** This Plaintiff exercises in his right to Freedom of Speech, and use of this U.S. District Court by Declaring that the State of Rhode Island Judiciary, still to date, **VOIDS** all Rhode Islander's in many of their rights in the exercise of their Freedoms, provided by this nation's inviolate right to the United States Constitution.

DECLARTATION #4. Nothing contained within this document is an "***allegation***" all information provided to this court is fact and documentable through RI Superior Court Transcript of which I have requested from the court reporter and will deliver upon this court, promptly upon my receiving of the transcripts, from RI Superior Court Reporter Patti Ahearn.

FACT: On the Day of November 6th, 2017, the Rhode Island Superior Court brought this Superior Court Defendant to jury trial in regards to a criminal charge. In total disregard to the RI Rules of Superior Court Criminal Procedure and in disregard to (2) pending Writ of Certiorari's awaiting decision before the Rhode Island Supreme Court, of which is a higher court than that of the (inferior) RI Superior Court. These actions are in fact, a violation to the code of ethics, of the RI Cannon Laws of the Judicial Ethical Code of Conduct.

1. U.S. 1ST AMENDMENT RIGHT SPEECH VIOLATION: Violation of my right to the 1st Amendment and Freedom of Speech, occurred on November 7th, 2017, when Justice Carnes refused to allow me to make an opening statement, after allowing an opening statement by the State of RI prosecutor, known as Ryan Stys. This Constitutional violation, is also a violation of the RI Rules of Superior Court Criminal Procedure, Rule # 2.6-Opening statements- (See attached). Also, a **VIOLATION** of the Rhode Island Constitution, **Article I, Section 21-FREEDOM OF Speech-.** **Furthermore**, within my request for Freedom of Speech I motioned to the RI Superior Court to allow me to submit all my pretrial transcripts and docketed motions which included key submitted **not guilty** evidence to the jury for review, as these docketed motions were the critical element of my defense. Justice Carnes denied me of that right, hence denying me of my inviolate Right to Freedom of Speech. The State of RI has enacted an **OPEN MEETINGS LAW ACT, RI GENERAL LAW 42-46-3-Open meetings-**. Pursuant to **42-46-5-Purposes for which meeting may be closed-**. Even in the event of a closed meeting it is to imperative to be noted that according to Section 4, Subsection (c,) that This chapter shall not apply to

proceedings of the judicial branch of state government or probate court or municipal court proceedings in any city or town.

2. U.S. 1st AMENDMENT RIGHT RELIGION VIOLATION: The RI Superior Court is in direct violation of **SEPARATION OF CHURCH AND STATE** On the 11th Day of November, 2017, Justice Carnes violated of my sacred right to sanctity of the Roman Catholic Sacrament of marriage. **GOD MADE MARRIAGE**, Marriage was created when he created Adam and Eve. The purpose of marriage was for two purposes: 1. For bringing children into the world and rearing them. 2. For the mutual **help** of husband and wife. How does the U.S. District Court determine this fact?

The Bible a prerequisite to man-made laws says so: "And the Lord said: It is not good for a man to be alone: let us make him a help like unto himself... Then the Lord cast a deep sleep upon Adam: and when he was fast asleep, he took one of his ribs, and filled up flesh for it. And the Lord GOD Build the rib which he took from Adam into a woman: and brought her to Adam."

(Genesis 2:18, 21-22) This Plaintiff having been granted the Sacrament of Roman Catholic Marriage and consummated of that marriage, entitles me to the full doctrine and teachings of my Religion, being that of a Roman Catholic. Including but not limited the inviolate right of Private Intimate Communication between husband and wife through my sacred right to the **Roman Catholic Sacrament of CONFESSION and MARRIAGE RECONCILIATION**. On the 7th Day of November, 2107, in a side bar decision, (yet still recorded to transcript), Justice Carnes ordered the State prosecutor to have my wife testify and read a letter which was previously in the possession of court papers I had, with an Attorney / Client privilege. I had through a previously appointed attorney. Through an **ILLEGALLY SEIZED EVIDENCE LINE OF TRAVEL**, as a result of an illegal, no court ordered search warrant entry of another's property, by the Cranston Police Department. The letter was illegally transferred by the Cranston Police to the hands of my estranged, vindictive, (RI Family Court Docketed and Proven), Perjurious wife.

United States Federal Criminal Procedure-PRIVILEGE FOR ADVERSAL SPOUSAL TESTIMONY VESTED IN WITNESS SPOUSE- *Trammel vs. United States*, 445 U.S. 40 (1980) (Please refer to sixty-six (66) attached United States Supreme Court case precedent decisions, by the United States Supreme Court, in the affirmative spouses right to not allow of damaging spousal adversal testimony).

3. U.S. 5th AMENDMENT RIGHT VIOLATION: (1966)- Miranda Vs. Arizona Rights to Miranda Rights Violation-: Justice Carnes allowed of testimony to be given to the jury by this Plaintiff's wife which was the result of a statement given by my wife Terryann Smith, while she and my son were being **"THEATENED AND TERRORIZED"** Officer Adam Houston of the RI State Police. At no time, was my wife or son ever afforded the opportunity to counsel or be afforded of their Miranda Rights by the RI State Police, in neither form of verbal, or written Miranda Rights Warning. My son of whom was present in the room also was a victim of **"TERRORISM"**, in which both my son and my wife were threatened with arrest by the FBI and RI State Police if they didn't give a statement. Neither parties were afforded their inviolate Miranda Rights.

4. RHODE ISLAND CONSTITUTIONAL RIGHT VIOLATION: In reference to violation # 1., The State of RI violated my rights to RI Constitutional Article I, Section 10, - **RIGHT OF ACCUSED PERSONS IN CRIMINAL PROCEEDINGS**- by Justice Carnes stating on court transcript record that he would not allow me to give an opening statement unless I would agree to testify against myself. Also, a violation of Article I, Section 13.-Self-Crimination-. Finally, Justice Carnes violated my right to RI Constitutional Article I, Section 14.-Presumption of innocence-, in respect to Justice Carnes not allowing me to make an opening statement and allowing State of RI Prosecutor Ryan Stys to proceed.

5. U.S. 5th AMENDMENT RIGHT VIOLATION: **(A)**. Justice Carnes ruling that I would not be able to give an opening statement of not guilty, and my suppressed proof of innocence, resulted in an unfair verdict, conviction and the violation of my rights to liberty as well as my rights to be afforded to Due Process of Law. **(B)**. On the Day of November 7th, 2017, having been granted the right to proceed in *Forma Pauperis*, through this **superior** United States District Court, District of Rhode Island on the 24th, Day of October 2017, I requested of my 5th Amendment Right to the **Assistance of Counsel** through the RI Public Def Colin Geisling, in which he clearly stated to me, and to the state prosecutor on previous occasion, that unless I agree for the Public Defender's Office to be lead counsel at trial and my signature agreement by contract, to refrain from speaking or participating at trial with my defense from the Public Defender's Office, he would deny me my right to the 5th Amendment Right of, **AND I "QUOTE"** **AS WRITTEN IN THE U.S. CONSTITUTION "ASSITANCE OF COUNSEL" END QUOTE.** It is of my sincerest hopes that this court will investigate and report to the RI Bar Association of Colin Geisling's unlawful actions, his unlawful laziness of cutting plea bargains with the prosecution, in effort to assist the prosecution in helping the RI Superior Court Judges with fast decisions and have him **disbarred**, as being one of the most contemptable, dishonest American Defense Lawyer's that I have ever met. (Please see attached pre-dated, granted *Forma Pauperis*, U.S. District Court Order: From United States District Court Judge, John J. McConnell, Jr.: **C.A. No. 17-480-JJM-PAS** as attached).

6. RHODE ISLAND CONSTITUTIONAL RIGHT VIOLATION: The State of RI is in violation of RI Constitutional Article VI, Section 1.-**Constitution supreme law of the state**-. Within **Article VI of the legislative power**, members of the RI Supreme Court Judiciary are not afforded the powers to void of my Constitutional Rights and furthermore, cannot proceed at trial in violation of passed RI General Assembly Laws.

7. U.S. 4th AMENDMENT RIGHT AND DUE PROCESS OF LAW VIOLATION: Prior to the start of trial, this Plaintiff motioned to RI Superior Court Justice William E. Carnes Jr., to honor a **Stay of Trial Proceedings**, Until the Superior Court would be issued a Ruling from the RI Supreme Court, in regards to my RI Supreme Court, time dated, docketed and stamped **PETITION FOR A WRIT OF CERTIORARI** was answered by the RI Supreme Court. (See attached Writ of Certiorari). Judge Carnes overruled the presented writ of Certiorari and in doing so violated of my 4th Amendment Right.

8. U.S. 4th AMENDMENT RIGHT VIOLATION: This Plaintiff contends that the RI Superior Court and the State of RI had no authority to bring this American Citizen to trial, hence that the State of RI Judiciary was in violation of passed RI Legislative General laws, in which a Traffic Tribunal Magistrate does not have the authority to be seated or placed to make judgements in another court of law, other than that of his only rightful jurisdiction, is to be seated on the bench in the RI Traffic Tribunal. By Rhode Island General Law as stated and documentedly proven in my attached Petition for a Writ of Certiorari "**CLEARLY STATES BY RI GENERAL LAW, THAT EVEN THE CHIEF JUSTICE OF THE RI SUPREME COURT, DOES NOT HAVE THE AUTHORITY TO REASSIGN TRAFFIC TRIBUNAL JUDGES TO OTHER COURTS**". Traffic Tribunal Magistrate Alan Goulart, even had the unlawful, unethical audacity to sign the search warrant and arrest warrant, while committing forgery of his signature, in impersonation of a judge. (See attached Writ of Certiorari for full explanation). Justice Carnes violated of my 4th Amendment right in respect to RI Rules of Superior Court Criminal Procedure, **RULE 41. Search and seizure.** – (a) **Authority to issue Warrant.** (f) **Motion to Suppress Evidence.** Was submitted by this Defendant to Justice Carnes and he denied of said motion stating that it is his opinion that it is allowable for a Traffic Tribunal Magistrate to proceed in criminal actions and the issuance of search warrants, while being reassigned to the District Court. **(THIS IS AN UNQUESTIONABLE, UNDISPUTABLE FACT THAT TRAFFIC TRIBUNAL JUDGES AND MAGISTRATES, CANNOT BE REASSIGNED TO OTHER COURTS, ACCORDING TO RI GENERAL LAW, FURTHERMORE, EVEN THE CHIEF JUSTICE OF THE RI SUPREME COURT, DOES NOT HAVE THE AUTHORITY TO REASSIGN TRAFFIC TRIBUNAL JUDGES. RI GENERAL LAW 8-8.2-1-ESTABLISHMENT-RULE MAKING AUTHORITY-ADJUDICATIONS OF VIOLATIONS- "(PLEASE REFER TO THE ATTACHED RI SUPREME COURT WRIT OF CERTIORARI)".**

WHEREFORE: This Plaintiff not having any real practical knowledge of RI law, YET having knowledge of and a belief in the privileges that Americans are afforded through the use United States Constitution, Prays through his Lord Jesus Christ and to this Honorable Court to provide him with an Emergency Injunction and stop all inferior RI Superior Court Proceedings until my (2) Writs of Certiorari are received by the RI Supreme Court to aid me in my **Not Guilty** Defense.

NOTE: My (2) Two Writs of Certiorari have been legally and properly docketed by the RI Supreme Court and have **not** in any way, shape or form been submitted to the RI Supreme Court in form of an appeal. **"AGAIN, THEY ARE NOT APPEALS"** they are legitimate questions of legality being placed upon the court and therefore not interlocutory. **NO APPEAL IN THIS MATTER HAS BEEN REQUESTED TO DATE.** My next RI Superior Court Date for sentencing is on November 20th, 2017. **This matter deserves of your EXTREME URGENT ATTENTION, PLEASE!!!**

PERSONAL NOTE: Not having of the knowledge correct legal vocabulary to use within these matters, I respectfully ask of Judges of the United States District Court, to be true American's and decide on this request within using your conscience, of protecting of my American values, way of life and Constitutional Rights. What decisions we make, in regards to helping our fellow man, regardless of our monetary professions, will follow us forever into our eternal lives. As our forefathers of men such as Washington, Jefferson, Adams and Davis all were intelligent and had

a sense of humor to go along with that intelligence, I Respectfully request in modern analogy, your decision as to whether or not to protect of my inviolate Constitutional Right to an emergency injunction is where the American "**RUBBER MEETS THE ROAD**"!

Thank You!

Respectfully Submitted by American Citizen,


Andrew Joseph Smith

CERTIFICATE OF SERVICE

I hereby Certify that on the 14th Day of November, 2017, I mailed a copy of this document to the RI Superior Court Criminal Court Clerk's Office, at the RI Superior Court, located at the address of 250 Benefit Street, Providence, RI 02903. I also mailed a copy of this document to State of RI Special Assistant Prosecutor Ryan Stys, at the address of The RI Attorney General's Office, located at 150 South Main Street, Providence, RI 02903.


Andrew J. Smith